

Application No. 10/626,080

Docket No.: 29618/EL013

RECEIVED
CENTRAL FAX CENTER

AUG 10 2006

REMARKS

Claims 1-24 and 26, 27 and 29-33 were reviewed in the most recent non-final Office Action, dated May 10, 2006. Claims 1-4, 22-23, 26, and 31-33 stand withdrawn as directed to a non-elected invention. Applicants appreciate the indication of allowance of claims 18-21, and the indication that claims 7-11 and 12-17 would be allowable if claims 7 and 12 were rewritten in independent form including all limitations of the base claim and any intervening claims. Claims 5, 6, 24, 27, and 29-30 stand rejected under 35 U.S.C. § 102(b) as anticipated by van Harlingen, U.S. Patent No. 522,171¹ ("Harlingen"). Claims 1-4, 22, 23, 26, and 31-33 stand withdrawn as directed to a non-elected invention.² These withdrawn claims have been canceled herein. Claims 25 and 28 were canceled in a previous amendment. Based on the amendments made herein, Applicants respectfully submit that all claims 5-21, 24, 27, 29, and 30 are in condition for allowance, and a Notice of Allowance be issued.

Claims 5 and 6 are Allowable

Applicants respectfully request withdrawal of the rejection to claim 5, as amended, as anticipated by Harlingen. Claim 5 now recites, in part, a catch on the plate on the second side which can releasably engage the band, and wherein the vanes are releasably securable against the plate by disposing the band across the vanes and releasably disposing the band on the catch. Harlingen discloses a Ready Reference File with a band E. Harlingen states, "In order

¹ The Office Action indicates that van Harlingen is U.S. Patent No. 2,149,489. The '489 patent, however, has an inventor of Ainsworth. Applicants' representative contacted Mr. Richard Chilcot, listed as Examiner Dooley's supervisor, and Mr. Chilcot identified the correct patent number for van Harlingen listed above.

Application No. 10/626,080

Docket No.: 29618/EL013

to hold the prescriptions back in the position shown, a cord or band E is employed, which is attached to the two ends of the backing..." Harlingen, page 2, lines 84-87. Accordingly, Harlingen fails to disclose that the band is releasably disposed on a catch. The Office further agrees that Harlingen fails to suggest the claimed structure, stating Harlingen "provides no motivation for having the band detachably connected to the plate." Office action, page 5. Because the cited references fails to disclose the claimed structure, and the Office admits that Harlingen fails to suggest the claimed structure, it is respectfully submitted that claims 5 and 6 are allowable over the art of record.

Claims 7-11 are Allowable

As amended herein, applicants respectfully request allowance of claims 7-11. The Office indicates that claim 7 would be allowable if rewritten in independent form reciting all limitations of the base claim and any intervening claims, because "Harlingen does not show the band being received in an opening, and provides no motivation for having the band detachably connected to the plate." Office action, page 5.

Claim 7 has been amended into independent form reciting all limitations of the previously-examined base claim 5 and recites, in part, a catch disposed in an opening in the plate where the band is disposed on the catch. Accordingly, claim 7 recites the subject matter that the Office indicates is novel and non-obvious. While claim 7 does not recite the subject matter of intervening claim 6, this claim simply recites that the vanes are flexible, and does not provide antecedent basis for the allowable subject matter. Accordingly, it is not believed

² Page 2 of the Office Action correctly indicates that claims 1-4, 22, 23, 26, and 31-33 stand withdrawn. However, the Office Action Summary, page 1 of the Office Action, incorrectly indicates that only claims 25 and 28 are withdrawn.

Application No. 10/626,080

Docket No.: 29618/EL013

that this subject matter is necessary for the allowance of claim 7. Allowance of claim 7 is respectfully requested. Dependent claims 8-11 are allowable for at least the same reasons.

Claims 12-17 are Allowable

Claim 12 has been amended to include the subject matter of previously-examined independent claim 5. The Office action indicates that claim 12 would be allowable if rewritten in independent form including all limitations of the base claim and any intervening claims. Applicants have made the amendment to claim 12 indicated to be allowable. Allowance of claim 12 is respectfully requested. Dependent claims 13-17 are allowable for at least the same reasons.

Claim 24 is Allowable

Applicants respectfully request withdrawal of the rejection to claim 24, as amended, as anticipated by Harlingen. Claim 24 recites, in part, a catch disposed on the plate and configured to releasably engage the band when the band is disposed across the vane and file to releasably secure the vane relative to the plate. Claim 24 is allowable for all the same reasons that claim 5 is allowable. Harlingen fails to disclose or suggest that the band is releasably engaged on the catch. Instead, Harlingen discloses that the band is permanently attached to the plate on both ends. Allowance of claim 24 is respectfully requested.

Claims 27, 29, and 30 are Allowable

Applicants respectfully request withdrawal of the rejection to claim 27, as amended, as anticipated by Harlingen. Claim 27 now recites, in part, that the handle includes a section

Application No. 10/626,080

Docket No.: 29618/EL013

of the plate extending outwardly from the plurality of vanes and further includes an opening in the plate.

While Harlingen does disclose that a section of the plate extends outwardly from the prescriptions, it fails to disclose an opening in the plate that could function as a handle. The Office action only argues that "a handle is [an] inherent feature of the covers (A) and (B) as that is where the file organizer would be gripped," Office action, page 4, and makes no finding that Harlingen includes an opening in the plate to form a handle. Accordingly, Harlingen fails to anticipate claim 27.

The claimed system is also non-obvious over Harlingen because it addresses a problem with the Harlingen system. To transport Harlingen's system, the user must grasp the ends of the plate, as indicated in the Office action. The handle structure claimed in claim 27, on the other hand, allows the desktop filing system to be more easily grasped and transported than the system shown in Harlingen. Moreover, Harlingen fails to disclose or suggest any structure for transporting his system. Because the claimed handle is both novel and non-obvious over the Harlingen reference, claim 27 is allowable. Dependent claims 29 and 30 are allowable for at least the same reasons.

Application No. 10/626,080

Docket No.: 29618/EL013

CONCLUSION

In view of this amendment, Applicants submit the pending application is in condition for allowance. If, in the opinion of the Examiner, a telephone conference would expedite prosecution of the subject application, the Examiner is invited to call the undersigned attorney.

No fee is believed due at this time. If any fee is due, please charge our Deposit Account No. 13-2855, under Order No. 29618/EL013, from which the undersigned is authorized to draw.

Respectfully submitted,

MARSHALL, GERSTEIN & BORUN LLP
6300 Sears Tower
233 South Wacker Drive
Chicago, Illinois 60606
312/474-6300

By: 

Russell C. Petersen
Registration No. 53,457
Attorney for Applicants

August 10, 2006